

AGENDA MEMORANDUM

Date: January 18, 2000

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TO: Lane County Board of Commissioners

DEPARTMENT: Board of County Commissioners

PRESENTED BY: *uv*
Bill Van Vactor, County Administrator

AGENDA ITEM TITLE: ORDER/In the Matter of Authorizing the County Administrator to Execute an Intergovernmental Agreement with the Cities of Eugene, Portland, and Roseburg; and Multnomah County for the Purpose of Pursuing a Declaratory Judgment Proceeding to Determine Employer Rights in the Public Employees Retirement System.

I. MOTION

MOVE APPROVAL OF BOARD ORDER AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT WITH THE CITIES OF EUGENE, PORTLAND, AND ROSEBURG; AND MULTNOMAH COUNTY FOR THE PURPOSE OF PURSUING A DECLARATORY JUDGMENT PROCEEDING TO DETERMINE EMPLOYER RIGHTS IN THE PUBLIC EMPLOYEES RETIREMENT SYSTEM.

II. ISSUE OR PROBLEM

Lane County government has been struggling with PERS every since October 6, 1998 when it received notice of a 75% increase in employer contributions from 7.82% to 13.73%. Lane County government has also been informed that we have an unfunded liability of over \$40 million. We have attended numerous PERS meetings, worked with our colleagues in AOC, and LOC, pursued judicial review of the rate increase itself (still pending) and worked with the 1999 legislature with regard to Senate Bill 722. We have learned much about PERS but many questions remain.

III. DISCUSSION

A. Background

Recently in testimony before the General Government Committee of the House Interim General Government Committee, David Bishop, the interim director of PERS,

indicated that they were working on three "solutions" on behalf of employers. One was pooling, one was changing interest crediting practices and the third issue was a review of practices of PERS with regard to the contingency fund.

All three of those so-called solutions are really corrections to past administrative issues that were in error. They do not do anything to address the unfunded liability. Because we have exhausted our administrative efforts, failed with the legislature and now learn that PERS is no longer working on only issues dealing with the unfunded liability issue, we have little choice but to seek a determination of what rights employers have in the PERS system.

The objective of this litigation is to seek a determination of employer rights. Should we receive a positive declaration of rights, then in the judgment portion of the proceeding, we would recommend that Lane County seek a ruling which provides for a prospective remedy.

B. Alternatives/Options

1. Do nothing.
2. Execute the Intergovernmental Agreement.

C. Recommendations

Because our administrative and legislative options have reached a dead end, I reluctantly recommend we join the lawsuit, Option 2.

D. Timing

The lawsuit should be filed in early February, 2000.

IV. IMPLEMENTATION/FOLLOW-UP

The Board will receive updates in Executive Session.

V. ATTACHMENTS

Proposed Intergovernmental Agreement.

IN THE BOARD OF COUNTY COMMISSIONERS, LANE COUNTY OREGON

ORDER No. 00-1-26-__) IN THE MATTER OF AUTHORIZING THE COUNTY
) ADMINISTRATOR TO EXECUTE AN INTERGOVERN-
) MENTAL AGREEMENT WITH THE CITIES OF
) EUGENE, PORTLAND, AND ROSEBURG; AND
) MULTNOMAH COUNTY FOR THE PURPOSE OF
) PURSUING A DECLARATORY JUDGMENT
) PROCEEDING TO DETERMINE EMPLOYER RIGHTS
) IN THE PUBLIC EMPLOYEES RETIREMENT SYSTEM

WHEREAS; Lane County received notice of a 75% increase in employer contributions from 7.82% to 13.73%; and

WHEREAS; Lane County government has been informed that we have an unfunded liability of over \$40 million; and

WHEREAS; Lane County has exhausted all administrative and legislative options, and PERS is no longer working on any strategies to address our unfunded liability; and

WHEREAS; Lane County is left with only limited options to determine its rights in the PERS system.

NOW THEREFORE IT IS HEREBY ORDERED, that the County Administrator is authorized to execute the Intergovernmental Agreement with Eugene, Portland, Roseburg and Multnomah County and seek a declaration of employer rights regarding PERS.

Dated this _____ day of January, 2000.

Chair, Lane County Board of Commissioners

PERS DECLARATORY JUDGMENT

Cost Sharing Agreement

This Agreement (Agreement) between Lane County (LANE), Multnomah County (MULTNOMAH), and the cities of Eugene (EUGENE), Roseburg (ROSEBURG) and Portland (PORTLAND), is entered under authority granted by ORS Chapter 190.

PURPOSE: The purpose of this agreement is to share the services of Harrang, Long, Gary, Rudnick, PC (Attorney) to obtain a Declaratory Judgment relating to the PERS employer contribution rate increase.

LANE, MULTNOMAH, EUGENE, ROSEBURG and PORTLAND (Parties) agree as follows:

1. SCOPE: The Scope of this Agreement is for legal work performed by Attorney that is in the interest of all the Parties, including, but not limited to, filing litigation to obtain a Judicial Declaration clarifying the PERS Board's trust duties, appeal through the Oregon Supreme Court and any other proceeding necessary to implement an appellate court's decision.
2. FEES:
 - a. The Attorney fees will be allocated among the Parties according to the following formula:

33.33%	PORTLAND
33.33%	MULTNOMAH
15.56%	LANE
1 5.56%	EUGENE
2.22%	ROSEBURG
 - b. If additional parties join in this litigation, the proportionate share of all Parties will be reduced. Total fees will not exceed \$250,000 without prior written consent of all Parties.
 - c. Invoices from the Attorney will be submitted to EUGENE, and EUGENE will, in turn, invoice PORTLAND, MULTNOMAH, ROSEBURG and LANE, to pay the percentages in subsection 2.a. above.
 - d. In the event the Attorney seeks a declaration of a legal right that solely benefits a single Party, that Party will pay 100 percent of the legal fees and costs associated with that particular legal claim or theory.

3. ENTIRE AGREEMENT: This is the entire Agreement among the Parties and supersedes all prior understandings between the Parties concerning this matter. This Agreement may be modified or amended only by the written agreement of the Parties.
4. CONTACTS: Each Party designates the following person or such person's designee to represent the Party in all matters pertaining to the administration of this Agreement (contacts). Day-to-day direction to Attorney will occur by a committee consisting of the following designees:

LANE COUNTY: Bill VanVactor
 125 East 8th Ave.
 Eugene, OR 97401
 (541) 682-4207

MULTNOMAH: Dave Boyer
 1120 SW Fifth Ave. Ste 1430
 Portland, OR 97204
 (503) 988-3903

EUGENE: Myrnie Daut
 Human Resource & Risk Svcs
 777 Pearl Street, Room 101
 Eugene, OR 97401
 (541) 682-5790

PORTLAND: Steve Manton
 1120 SW 5th Avenue
 Portland, OR 97204
 (503) 823-6963

ROSEBURG: Lance Colley
 City of Roseburg
 900 NE Douglas
 Roseburg, OR 97470
 (541) 672-7701

5. DISPUTES: In the event of a dispute, the contacts will meet and resolve conflicts. If the conflict cannot be resolved, the Agreement will be terminated as set forth below.
6. TERM: The term of this Agreement is for three years, from _____ to _____.
7. TERMINATION: Upon payment of all accrued bills, this Agreement may be terminated by any Party upon 30 days written notice to the other Parties. The remaining Parties may renegotiate and amend this Agreement as appropriate.

Dated this ____ day of _____, 2000.

LANE COUNTY

By: _____

Title: _____

MULTNOMAH COUNTY

By: _____

Title: _____

Approved as to form:

CITY OF EUGENE

By: _____

Title: _____

Approved as to form:

CITY OF ROSEBURG

By: _____

Title: _____

Approved as to form:

REVIEWED:

Thomas Sponsler, County Counsel
For Multnomah County

CITY OF PORTLAND

By: _____

Title: _____

Approved as to form:
